

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 03-14038

FILED  
S. J.  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
April 14, 2005  
THOMAS K. KAHN  
CLERK

D. C. Docket Nos. 90-00258-CV-5 & 90-00262- CV-5

FELTON CULLEN WILLIAMS,  
RICHARD L. CARTER, et al.,

Plaintiffs-Appellees,

versus

OWENS-CORNING FIBERGLAS CORPORATION, et al,

Defendants,

CSX TRANSPORTATION, INC.,

Defendant-Appellant.

No. 03-14508

D. C. Docket No. 01-00155-CV-2

JAMES LEVERETT,  
Individually and as Executor of the  
Estate of Gloria Leverett, Deceased,

A True Copy - Attested  
Clerk U.S. Court of Appeals,  
Eleventh Circuit

Deputy Clerk  
Atlanta, Georgia

Plaintiff-Appellee,

versus

CSX TRANSPORTATION INC.,  
Individually and as Successor in Interest to  
Seaboard Systems Railroad, Inc., The Seaboard  
Coastline Railroad, The Atlantic Coastline Railroad and  
The Georgia and Florida Railroad,

*[Handwritten signature]*  
RECEIVED  
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ATLANTA, GA  
MAY 16 2005  
FILED  
CLERK  
GUNNARICK

Defendant-Appellant,

GARLOCK, INC., et al,

Defendants.

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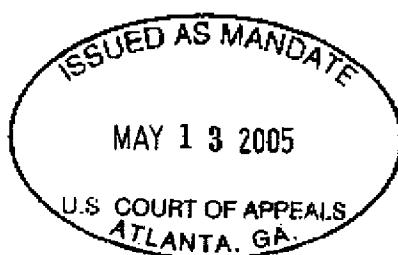
Appeals from the United States District Court  
for the Southern District of Georgia

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JUDGMENT

It is hereby ordered, adjudged, and decreed that the attached opinion  
included herein by reference, is entered as the judgment of this Court.

Entered: April 14, 2005  
For the Court: Thomas K. Kahn, Clerk  
By: Gilman, Nancy



Felton Cullen WILLIAMS.

Plaintiffs-Appellees.

v.

OWENS-CORNING FIBERGLAS  
CORPORATION, et al.,  
Defendants.

CSX Transportation, Inc.,  
Defendant-Appellant.

James Leverett, Individually and as Executor of the Estate of Gloria Leverett, Deceased, Plaintiff-Appellee.

v.

CSX Transportation Inc, Individually and as Successor in Interest to Seaboard Systems Railroad, Inc., The Seaboard Coastline Railroad, The Atlantic Coastline Railroad and The Georgia and Florida Railroad, Defendant-Appellant,

Garlock, Inc., et al, Defendants.

Nos. 03-14038, 03-14508.

United States Court of Appeals,  
Eleventh Circuit.

April 14, 2005.

Appeals from the United States District Court for the Southern District of Georgia (Nos. 90-00258-CV-5, 90-00262-CV-5 and 01-00155-CV-2); Anthony A. Alaimo, Judge.

Before BLACK, RONEY and STROM\*, Circuit Judges.

\* Honorable Lyle E. Strom, United States District Judge for the District of Nebraska, sitting by

PER CURIAM:

These separate interlocutory appeals, Nos. 03-14038 & 03-14508, are again before this Court after the Supreme Court of Georgia's answer to our Certified Question of State Law. Plaintiffs are relatives, or personal representatives thereof, of Defendant CSX Transportation ("CSXT") employees who allege in the diversity jurisdiction case they were exposed at locations other than CSXT work facilities, such as at home, to asbestos fibers emitted from the work clothing worn by their CSXT-employee relatives, causing them, among other things, lung diseases. The district court denied CSXT's motions for partial summary judgments on plaintiffs' negligence claims under Georgia negligence law. We reverse.

As we recently explained, "the district court held that Georgia negligence law imposed a duty of care on CSXT to its employees' family members who were exposed to that asbestos-tainted clothing." *Williams v. Owens-Corning Fiberglas Corp.*, 369 F.3d 1269, 1270 (11th Cir.2004). Because we found no published Georgia case on point, we certified the following question of Georgia law to the Supreme Court of Georgia:

Whether Georgia negligence law imposes any duty on an employer to a third-party, non-employee, who comes into contact with its employee's asbestos-tainted work clothing at locations away from the workplace, such as the employee's home?

369 F.3d at 1270.

The Supreme Court of Georgia has now answered our question in the negative as follows, "Georgia negligence law does not impose any duty on an employer to a third-party, non-employee, who comes into contact

designation.

WILLIAMS v. OWENS-CORNING FIBERGLAS CORP.

1927

Felton Cullen WILLIAMS,  
Plaintiffs-Appellees,

v.

OWENS-CORNING FIBERGLAS  
CORPORATION, et al.,  
Defendants,

CSX Transportation, Inc.,  
Defendant-Appellant.

James Leverett, Individually and as Executor  
of the Estate of Gloria Leverett,  
Deceased, Plaintiff-Appellee,

v.

CSX Transportation Inc., Individually and as Successor in Interest to Seaboard Systems Railroad, Inc., The Seaboard Coastline Railroad, The Atlantic Coastline Railroad and The Georgia and Florida Railroad, Defendant-Appellant,

Garlock, Inc., et al, Defendants.

Nos. 03-14038, 03-14508.

United States Court of Appeals,  
Eleventh Circuit.

April 14, 2005.

Appeals from the United States District Court for the Southern District of Georgia (Nos. 90-00258-CV-5, 90-00262-CV-5 and 01-00155-CV-2); Anthony A. Alaimo, Judge.

Before BLACK, RONEY and STROM\*,  
Circuit Judges.

\* Honorable Lyle E. Strom, United States District Judge for the District of Nebraska, sitting by

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designation.

1928

WILLIAMS v. OWENS-CORNING FIBERGLAS CORP.

with its employee's asbestos-tainted work clothing at locations away from the workplace." See *CSX Transp., Inc. v. Williams, et al.*, 278 Ga. 888, 608 S.E.2d 208, 210 (2005).

It was therefore error for the district court to deny CSXT's motions for partial summary judgment on the ground that CSXT owed

such a duty of care. The judgment denying CSXT's motions for summary judgment are reversed and the cases are remanded to the district court for proceedings consistent with the Georgia State Law.

REVERSED AND REMANDED.

A True Copy - Attested  
Clerk U.S. Court of Appeals,  
Eleventh Circuit  
By: *[Signature]*  
Deputy Clerk  
Atlanta, Georgia

U.S. Court of Appeals, Eleventh Circuit—West, a Thomson business, Saint Paul, Minn.

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT  
BILL OF COSTS

APR 22 2005

CSX Transportation

Appellant

vs.

Case No. 03-90004

14038 CC

Audie R. Williams et al.

Appellee

Fed.R.App.P. 39 and 11th Cir. R. 39-1 (sc reverse) govern costs which are taxable in this court and the time for filing the Bill of Costs. A motion for leave to file out of time is required for a Bill of Costs not timely received.

## INSTRUCTIONS

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Record Excerpts	<input checked="" type="checkbox"/> In-House <input type="checkbox"/> Comm*	184	10	1840	460.00	\$460.00
Appellee's Brief						
Reply Brief	<input checked="" type="checkbox"/> In-House <input type="checkbox"/> Comm*	22	2013	480286	110.00	\$71.50
*Note: If reproduction was done commercially, receipt(s) must be attached.				TOTAL	\$ 750.00	\$ 648.50
				REQUESTED		ALLOWED

I hereby swear or affirm that the costs claimed were actually and necessarily incurred or performed in this appeal and that I have served this Bill of Costs on counsel/parties of record.

Date Signed: April 20, 2005Signature: Maya Belen NovakAttorney for: CSX Transportation  
(Type or print name of client)A True Copy - Attested  
Clark U.S. Court of Appeals,  
Eleventh Circuit

## FOR COURT USE ONLY

Costs are hereby taxed in the amount of \$ 648.50against AppelleeBy: Thomas K. Kahn  
Deputy Clerk  
Atlanta, Georgiaand are payable directly to Appellant

Thomas K. Kahn, Clerk

Issued on: MAY 13 2005By: D. Clark  
Deputy Clerk

**United States Court of Appeals**  
Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

Thomas K. Kahn  
Clerk

For rules and forms visit  
[www.ca11.uscourts.gov](http://www.ca11.uscourts.gov)

May 13, 2005

Scott L. Poff  
Clerk, U.S. District Court  
801 GLOUCESTER ST RM 229  
BRUNSWICK GA 31521-7075

**Appeal Number: 03-14038-CC**  
Case Style: Felton Cullen Williams v. Owens-Corning Fiberglas  
District Court Number: 90-00258 CV-5  
SECONDARY CASE NO: 90-00262 CV-5

The enclosed certified copy of the judgment and a copy of this court's opinion are hereby issued as the mandate of this court.

Also enclosed are the following:

Bill of Costs

Original Exhibits, consisting of: one envelope  
Original record on appeal or review, consisting of: eight volumes

The district court clerk is requested to acknowledge receipt on the copy of this letter enclosed to the clerk.

A copy of this letter, and the judgment form if noted above, but not a copy of the court's decision, is also being mailed to counsel and pro se parties. A copy of the court's decision was previously mailed to counsel and pro se parties on the date it was issued.

Sincerely,

THOMAS K. KAHN, Clerk

Reply To: James O. Delaney (404) 335-6113

Encl.

FILED  
U.S. DIST. COURT  
BRUNSWICK DIV.  
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MDT-1 (03-2004)

Scott L. Poff  
Clerk, U.S. District Court  
801 GLOUCESTER ST RM 229  
BRUNSWICK GA 31521-7075

May 13, 2005

**Appeal Number: 03-14038-CC**  
Case Style: Felton Cullen Williams v. Owens-Corning Fiberglas  
District Court Number: 90-00258 CV-5

TO: Scott L. Poff  
CC: Mary Helen Moses  
CC: Randall Athley Jordan  
CC: Roger B. Lane  
CC: Mark Joseph Eujold  
CC: Charles Darrell Gossett  
CC: Administrative File